

1 Deborah J. Pimentel, In Pro Per
2 CA SBN 115182
3 6644 Wooster Court
Castro Valley, CA 94552
510 886 8933

FILED
08 JUL -1 PM 1:31
RICHARD N. HICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA /S/

5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA

8 DEBORAH J. PIMENTEL,) Case No.: C08-00249 MMC
9 vs.)
10 Plaintiff,) PLAINTIFF'S NOTICE OF MOTION AND MOTION
11 THOMAS J. ORLOFF, NANCY O'MALLEY,) FOR CONTINUANCE PURSUANT TO FRCP 6-3,
12 G. RICHARD KLEMMER, DAVID C. BUDDE,) DECLARATION IN SUPPORT THEREOF AND
13 THE DISTRICT ATTORNEY'S OFFICE OF) PROPOSED ORDER
ALAMEDA COUNTY, THE COUNTY OF)
ALAMEDA, DOES 1 - 10,)
Defendants.))

15 TO: DEFENDANTS AND THEIR ATTORNEY OF RECORD HEREIN:

16 PLAINTIFF DOES AND HEREBY MOVES for an ORDER enlarging the time for Plaintiff to file her
17 Response to Motion to Dismiss [FRCP 12(b)(6)] pursuant to FRCP 6-3, based on the Declaration herein
18 and in the interests of justice.

19 DECLARATION

20 I, Deborah J. Pimentel, declare as follows:

- 21 1. a. On or about June 2, 2008, my 16-year-old daughter became ill;
22 b. On or about June 7, 2008, I received Defendants' Motion to Dismiss herein;
23 c. On June 9, 2008, my daughter's illness became severe and she was admitted to
24 Kaiser Hospital in Hayward;
25 d. On June 11, 2008, she underwent emergency surgery;
26 e. On June 12, 2008, she was released to recover at home;
27 f. On June 13, 2008, it was discovered she had contracted an infection at the hospital
28 for which she required further treatment;

- g. During her stay at the hospital, I was at her side night and day;
- h. Upon her return home I was her sole source of care;
- i. Her recovery took approximately ten days, during which time I was unable to focus on anything but her care and welfare.
- j. Upon her recovery I began research for my Response to Defendants' Motion to Dismiss and realized I had missed the filing deadline.

On Friday evening, June 27, 2008, I attempted to call Defense Counsel Diane Graydon to inquire whether she would stipulate to continue the Motion to Dismiss but realized it was after hours. On Monday morning, June 30, 2008, I left a message for Ms. Graydon to call me, explaining my dilemma in detail. At noon I had still not heard from Ms. Graydon, so I called her again. She stated she had listened to my message and refused to accommodate my request. I reiterated the reason for my request and she stated that I would have to file the within Motion as she would not agree to change the hearing date. Should this Court not grant the within Motion, Plaintiff will not be able to contest the Motion to Dismiss and may be irreparably harmed, in that the Motion to Dismiss may be granted and Plaintiff will not have the opportunity to have her Complaint adjudicated on the merits.

There have been no other time modifications in this case.

The granting of this Motion should have no effect on any future dates in this matter.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 30th day of June, 2008.

~~Deborah J. Pimentel, In Pro Per~~

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Plaintiff

ORDER

GOOD CAUSE APPEARING, IT IS THE ORDER OF THIS COURT THAT

Defendants' Motion to Dismiss is set for _____; IT IS FURTHER

ORDERED THAT Plaintiff shall file and serve any Response to the Motion to Dismiss not later than

Dated:

The Honorable MAXINE M. CHESNEY
Judge, United States District Court

PROOF OF SERVICE

I, Jacob Wood, declare that:

I am a citizen of the United States, over the age of 18 years and not a party to the within-entitled action. My address is 16634 Kent Ave, San Lorenzo, CA 94580.

On June 30, 2008, I served Plaintiff's Motion to Enlarge Time for Filing, Declaration and Proposed

Order on:

Diane C. Graydon
Deputy County Counsel
Office of County Counsel
Alameda County
1221 Oak Street, Suite 450
Oakland, CA 94612

By placing a true and correct copy of the above document(s) in a sealed envelope addressed to the above party or parties at the address(es) above with postage thereon fully prepaid and placed said envelope(s) in the United States mail in the City of San Lorenzo, California.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at San Lorenzo, California, on June 30, 2008.

Jacob Woo
Jacob Woo

Jacob Wood